

### §711.13

rationale, to an individual who is denied certification or recertification. The operations office manager's decision shall be accompanied by notification to the individual, in writing, of the procedures in paragraph (g) of this section and §§711.14–711.16 pertaining to reconsideration or a hearing on the operation office manager's decision.

(h) *Request for reconsideration or certification review hearing.* An individual who receives notification of an operation office manager's decision to deny or revoke his or her PAP certification may choose one of the following options:

(1) Take no action;

(2) Submit a written request to the operations office manager for reconsideration of the decision to deny or revoke certification. The request shall include the individual's response to any information that gave rise to a concern about the individual's suitability for nuclear explosive duties. The statement shall be signed under oath or affirmation before a notary public, and must be sent by certified mail to the operations office manager within 20 working days after the individual received notice of the operations office manager's decision; or

(3) Submit a written request to the operations office manager for a certification review hearing. The request for a hearing must be sent by certified mail to the operations office manager within 20 working days after the individual receives notice of the operations office manager's decision.

(i) *Operations office manager's decision after reconsideration or hearing.* (1) If an individual requests reconsideration by the operations office manager but not a certification review hearing, the operations office manager shall, within 20 working days after receipt of the individual's request, send by certified mail, return receipt requested, to the individual a final decision as to suitability based upon the individual's response and other relevant information available to the operations office manager.

(2) If an individual requests a certification review hearing, the operations office manager shall decide the matter after receipt of the certification review hearing officer's report and recommendation, as provided in §711.15.

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The operations office manager shall, within 20 working days after receiving the hearing officer's report and recommendation, send by certified mail, return receipt requested, the operations office manager's final decision to the individual, accompanied by a copy of the hearing officer's report and recommendation, and the transcript of the certification review proceedings.

### §711.13 Appointment of a certification review hearing officer and legal counsel.

(a) After receiving an individual's request for a certification review hearing, the operations office manager shall promptly appoint a certification review hearing officer. The hearing officer shall:

(1) Be a DOE attorney or a hearing official from the DOE Office of Hearings and Appeals and have a DOE Q access authorization; and

(2) Have no prior involvement in the matter or be directly supervised by any person who is involved in the matter.

(b) The operations office manager shall also appoint a DOE attorney as counsel for DOE, who shall assist the hearing officer by:

(1) Obtaining evidence;

(2) Arranging for the appearance of witnesses;

(3) Examining and cross-examining witnesses; and

(4) Notifying the individual in writing, at least 7 working days in advance of the hearing, of the scheduled place, date, and hour where the hearing will take place.

### §711.14 Certification review hearing.

(a) The certification review hearing officer shall conduct the proceedings in an orderly and impartial manner to protect the interests of both the Government and the individual.

(b) An individual who requests a certification review hearing shall have the right to appear personally before the hearing officer; to present evidence in his or her own behalf, through witnesses or by documents, or by both; and be accompanied and represented at the hearing by counsel of the individual's choosing or any other person and at the individual's own expense.